



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

TIDEWATER REGIONAL OFFICE

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Secretary of Natural Resources

David K. Paylor
Director
(804) 698-4000

Craig R. Nicol
Regional Director

**STATE AIR POLLUTION CONTROL BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
CROWN CORK & SEAL USA, INC.
FOR
Suffolk, Virginia Facility
Registration No. 61171**

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Crown Cork & Seal USA, Inc. for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, and the applicable Stationary Source Permit to Operate permit and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Crown" means Crown Cork & Seal USA, Inc., a corporation authorized to do business in Virginia and its affiliates, partners, subsidiaries, and parents. Crown is a "person" within the meaning of Va. Code §10.1-1300.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Facility" means the Crown facility located at 1305 Progress Road, Suffolk, VA 23324.
6. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.

7. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
8. "Permit" means a Stationary Source Permit to Operate which was issued under the Virginia Air Pollution Control Law and the Regulations to Crown Cork & Seal USA, Inc. on July 14, 2009.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "TRO" means the Tidewater Regional Office of DEQ, located in Virginia Beach, Virginia.
11. "Va. Code" means the Code of Virginia (1950), as amended.
12. "VAC" means the Virginia Administrative Code.
13. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Crown owns and operates the Facility in Suffolk, Virginia, which operates three can assembly lines, a natural gas heater/boiler, and a parts washer using mineral spirits.
2. Crown is subject to the Permit. The Permit authorizes Crown to discharge, within limits, Volatile Organic Compounds ("VOCs"), nitrogen oxide, and carbon monoxide during the manufacture of metal cans.
3. By email dated January 24, 2020, Crown submitted a timely annual update report ("AUR") of coatings, lubricants, solvents, and natural gas throughputs for the calendar year 2019. On the AUR, Crown reported an annual use of 5,885 gallons of side seam stripe coating for the three can assembly lines combined for 2019.
4. Permit condition 6 states that the side seam stripe coating for the three can assembly lines combined shall not exceed annually 4,704 gallons calculated on a monthly basis.
5. According to Crown, the side seam stripe coating exceedance began in May 2019 and continued through June 2020.
6. The Permit exceedances ranged from 5.0% to 20.0% as shown in the table below:

Date	Reported Side Seam Stripe Coating (Permit Limit 4,704 gallons)	% over limit
May 2019	4,950	5.0

June 2019	5,115	8.0
July 2019	5,225	10.0
August 2019	5,500	10.0
September 2019	5,555	15.3
October 2019	5,665	17.0
November 2019	5,830	19.3
December 2019	5,885	20.0
January 2020	5,885	20.0
February 2020	5,665	17.0
March 2020	5,610	16.1
April 2020	5,555	15.3
May 2020	5,225	10.0
June 2020	5,280	11.0

7. Va. Code § 10.1-1322(A) provides that permits may be issued, amended, revoked, or terminated and reissued by the Department and may be enforced under the provisions of this chapter in the same manner as regulations and orders.
8. On June 16, 2020, based upon the Facility AUR submitted January 24, 2020, DEQ issued NOV number ATRO001557 for exceedance of the Permit Condition 6 limiting annual side seam stripe coating for the three can assembly lines combined to not more than 4,704 gallons on a monthly basis as described in paragraphs C(3) through C(7), above.
9. On July 7, 2020, Crown responded to the NOV by telephone. According to the response, the additional use of side seam stripe coating resulted from changes in customer requirements of additional side seam stripe coatings on each can. Also according to the response, Crown is in the process of submitting an air permit application to obtain an air permit with higher throughput limits for the side seam stripe coating.
10. Based on the January 24, 2020 report from Crown, the Board concludes that Crown violated the Permit condition 6 as described in paragraphs C(3) through C(7), above.
11. In order for Crown to return to compliance, DEQ staff and representatives of Crown have agreed to the Schedule of Compliance, which is incorporated as Appendix A of this Order.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Crown, and Crown agrees to:

1. Perform the actions described in Appendix A of this Order; and
2. Pay a civil charge of \$7,869 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Crown shall include its Federal Employer Identification Number (FEIN) 23-2869494 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Crown shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

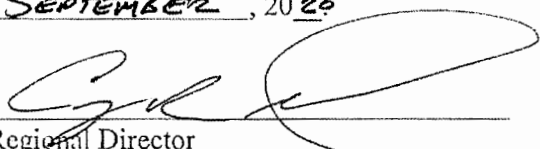
1. The Board may modify, rewrite, or amend this Order with the consent of Crown for good cause shown by Crown, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in the Crown NOV No. ATRO001557 dated June 16, 2020. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Crown admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Crown consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Crown declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Crown to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Crown shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Crown shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Crown shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.
9. Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Crown. Nevertheless, Crown agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. The Director or his designee terminates the Order after Crown has completed all of the requirements of the Order;
 - b. Crown petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Crown.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Crown from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Crown and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Crown certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Crown to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Crown.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Crown voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 8 day of SEPTEMBER, 2020



Regional Director
Department of Environmental Quality

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Crown voluntarily agrees to the issuance of this Order.

Date: 9/2/20 By: Michael A. Antry, Vice President
(Person) (Title)
Crown Cork & Seal USA, Inc.

Commonwealth of ~~Virginia~~ Pennsylvania
City/County of Bucks

The foregoing document was signed and acknowledged before me this 2nd day of
September, 2020 by Michael A. Antry who is
Vice President of Crown, on behalf of the corporation.

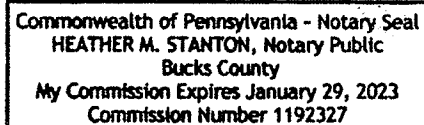
Heather M. Stanton
Notary Public

1192327

Registration No.

My commission expires: 01/29/2023

Notary seal:



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**APPENDIX A
SCHEDULE OF COMPLIANCE**

Crown shall:

1. By October 1, 2020, submit to DEQ an air permit application containing all required information for higher Permit throughput limits of side seam stripe coating for the can assembly lines;
2. Within 15 days of receipt, respond to each request for information from DEQ regarding completion of the air permit application for higher Permit throughput limits of side seam stripe coating for the can assembly lines;
3. Beginning October 1, 2020, monthly by the 10th of each month for the duration of this Order, submit to DEQ records of the most recent month throughputs of side seam stripe coating and side seam stripe coating emissions;
4. Unless otherwise specified in this Order, Crown shall submit all requirements of Appendix A of this Order to:

Regional Director
DEQ – Tidewater Regional Office
5636 Southern Blvd.
Virginia Beach, VA 23462